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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,797	04/02/2004	Doru Calin	129250-001068/US	9920
33498 7590 02/10/2009 CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC P.O. BOX 1995 VIENNA, VA 22183				
EXAMINER KAMPURIA, SHARAD K				
ART UNIT 2617		PAPER NUMBER		
MAIL DATE 02/10/2009		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/815,797

Applicant(s)

CALIN ET AL.

Examiner

SHARAD RAMPURIA

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(c), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(c) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/28/2008 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-4, 8-12, 16-20, 22-23, 27-29, 33-37, 41-49 are rejected under 35 U.S.C. 102 (b) as being anticipated by **Feuerstein; Martin J. et al.** [US 6141565 A].

As per claim 1, **Feuerstein** teaches:

A method implemented in a controller for setting a number of base stations that can be considered hand-off base stations (i.e. Abstract) comprising the steps of:

Measuring real-time traffic flow criteria associated with one or more base stations; (e.g.; Col.3; 55-65) setting a number of base stations that can be considered hand-off base stations, from a neighbor list of potential hand-off base stations, depending on the measured traffic flow. (e.g.; Col.13; 1-26)

As per claims 3, 22, Feuerstein teaches the method as in claims 1, 20, respectively, further comprising the step of maintaining an initial neighbor list and generating an adaptable neighbor list of potential hand-off base stations based on traffic flows. (e.g. Col.10; 25-30)

As per claims 4, 23, Feuerstein teach the method as in claims 1, 20, respectively, further comprising setting the size of the adaptable neighbor list without requiring human intervention. (e.g., Col.11; 11-25).

As per claims 8, 27, Feuerstein teaches:

The method as in claims 1, 20, respectively, further comprises the step of forwarding the varied, adaptable neighbor list to the wireless device. (Col.11; 11-25)

As per claim 9, Feuerstein teaches:

The method as in claim 1 wherein the wireless device is operable to enable the hand-off. (Col.11; 11-25)

As per claim 10, Feuerstein teaches:

The method as in claim 1 wherein the at least one base station on the varied list is operable to enable the hand-off. (Col.11; 11-25)

Claims 11, 16-17, 19-20, 28, 33-34, 36-37, 41, 43-44, 46, are the **method, system**, claims, corresponding to **method** claim 1 respectively, and rejected under the same rational set forth in connection with the rejection of claim 1 respectively, above.

As per claims 12, 18, 29, 35, 42, 45, Feuerstein teach the method as in claims 11, 17, 28, 34, 41, 44, respectively, further comprising the step of preventing said base station from handing-off said call when said traffic flow criteria does not meet said acceptable level. (e.g. threshold; Col.10; 25-30)

As per claims 47-49, Feuerstein teaches:

The method as in claims 20, 37, wherein the measurement step further comprises:
Measuring the level of one or more pilot signals, each pilot signal associated with a potential hand-off base station included in the neighbor list (e.g., Col.6; 51-63)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 2, 5-7, 13-15, 21, 24-26, 30-32, 38-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feuerstein in view of Celedon et al. [US 20030190916].

As per claims 2, 21, 38, the above combinations teaches all the particulars of the claim except the step of varying the size of the neighbor list so that the size is set below an initial size to prevent a return to an overload traffic condition. However, Celedon teaches in an analogous art, that the method as in claims 1, 20, 37 respectively, further comprising the step of varying the size of the neighbor list so that the size is set below an initial size to prevent a return to an overload traffic condition. (Pg.2; 0024) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Feuerstein including the step of varying the size of the neighbor list so that the size is set below an initial size to prevent a return to an overload traffic condition in order to provide a method of optimizing neighbor lists by automatically removing and adding cells to overcome the disadvantages of the existing solutions.

As per claims 5-6, 24-25, 39-40, the above combinations teaches all the particulars of the claim except decreasing/increasing the size of the adaptable neighbor list as the traffic flow criteria worsens/improves. However, Celedon teaches in an analogous art, that the method as in claims 1, 20, 37 respectively, further comprising decreasing/increasing the size of the adaptable neighbor list as the traffic flow criteria worsens/improves. (Pg.2; 0028)

As per claims 7, 26, the above combinations teach all the particulars of the claim except the number of base stations included in the adaptable neighbor list of potential hand-off base stations is less than a maximum number of base stations included in an initial neighbor list. However, Celedon teaches in an analogous art, that the method as in claims 1, 20, respectively, wherein the number of base stations included in the adaptable neighbor list of potential hand-off base stations is less than a maximum number of base stations included in an initial neighbor list. (Pg.3; 0037)

As per claims 13-15, 30-32, the above combinations teach all the particulars of the claim except a value of the threshold may change over time. However, Celedon teaches in an analogous art, that the method as in claims 11, 28, respectively, wherein a value of the threshold may change over time. (i.e. threshold are variable; Pg.3; 0034)

Response to Amendments & Remarks

Applicant's arguments with respect to claims 1-49, have been fully considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharad Rampuria whose telephone number is (571) 272-7870. The examiner can normally be reached on M-F. (8:30-5 EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne Bost can be reached on (571) 272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000 or

EBC@uspto.gov.

/Sharad Rampuria/
Primary Examiner
Art Unit 2617